

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: BAIR HUGGER FORCED AIR MDL No.: 15-md-02666 (JNE/FLN)
WARMING PRODUCT LIABILITY
LITIGATION

This Document Relates To:

WILLIAM SELLERS,

Plaintiff,

Civil Action No.: 17-CV-01879-JNE-FLN

PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS

NOW COMES Plaintiff, William Sellers, identified in Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1030], and by and through undersigned counsel submits this, his Response to Defendants' Motion to Dismiss, and would respectively show the Court the following:

1. In June of 2015, Mr. William Sellers contacted undersigned counsel regarding an infection and subsequent treatment that he experienced due to the use of a Bair Hugger patient warming device during an orthopedic surgery.
2. Counsel worked to obtain medical records and billing records to move forward with the case. Those records indicate that a Bair Hugger device was used during the original surgery.
3. On June 5, 2017, counsel filed the current action to comply with what was identified as the applicable statute of limitations deadline for the relevant claim.

4. Numerous phone calls by Kennedy Hodges staff were placed in attempt to obtain information for the Plaintiff Fact Sheet. These calls were place in June, July, and August of 2017, prior to the original deadline for submission of the Plaintiff Fact Sheet.
5. Additionally, several letters and emails were sent to Mr. Sellers since his case was filed, requesting he contact our office.
6. While counsel has diligently continued to make efforts to contact Mr. Sellers for several months, those efforts have not been successful.
7. As a result, counsel has not been able to obtain the necessary information to complete the Plaintiff Fact Sheet for this claim.

Accordingly, undersigned counsel requests that the current action not be dismissed with prejudice and that Mr. Sellers be given an additional sixty (60) days to contact counsel to provide the necessary information to cure any alleged deficiencies with the Plaintiff Fact Sheet and continue the case.

Dated: January 11, 2018

KENNEDY HODGES, LLP

By: /s/ David W. Hodges
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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

This is to certify that on January 11, 2018 a copy of the forgoing instrument was served on all parties via the Court's electronic filing system.

By: /s/ David W. Hodges

David W. Hodges